THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.18621 OF 2002

DATED: 13-03-2007

Between:

A.P. State Road Transport Corporation, Mushirabad, Hyderabad represented by its Managing Director and another.

.. Petitioners

and

A. Ganapathi and another.

.. Respondents

THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.18621 OF 2002

ORDER:

This writ petition is filed seeking a certiorari to call for the records relating to an award dated 13.09.2001 passed in I.D.No.42 of 1998 on the file of the Labour Court II, Hyderabad, and quash the same as illegal, invalid and without jurisdiction.

The petitioner is the management and the 1st respondent is the workman of A.P. State Road Transport Corporation (for short 'APSRTC'). It appears, the 1st respondent was appointed as a Booking Clerk in APSRTC with effect from 02.08.1968. He was removed from service on 28.07.1971 and, thereafter, re-appointed on 15.05.1972, on his appeal. Again, he was removed from service on 28.05.1979 and the appeal filed by him was rejected on 30.01.1980. Aggrieved by the same, he raised a dispute in I.D.No.102 of 1992 before the Labour Court and, the Labour Court, by an award dated 14.02.1994, directed the petitioner-management to reinstate the 1st respondent into service with continuity of service, but without backwages.

According to the petitioner-management, since some erroneous orders were passed on 30.03.1995, treating the 1st respondent as a Conductor Grade-II with effect from 01.03.1993, he was promoted as Grade-I Conductor with effect from 05.06.1996. On realization of the said mistake and to rectify the same, a show-cause notice was issued on 21.12.1996 to the 1st respondent asking him to show cause as to why his designation

should not be changed to Booking Clerk. Since there was no explanation from the 1st respondent within the stipulated time, in spite of receipt of show-cause notice by him, a final order was passed on 22.01.1997 withdrawing the promotion of the 1st respondent as Conductor Grade-I and fixing his seniority in the cadre of Booking Clerk. Aggrieved by the same, the 1st respondent raised a dispute before the Conciliation Officer and the same was referred to Labour Court-II for its adjudication under Section 10 (1) (c) of the Industrial Disputes Act (for short 'the Act'), and numbered as I.D.No.42 of 1998. The Labour Court, after detailed consideration of the oral and documentary evidence available on record, held that the order passed by the Personnel Officer on 22.01.1997, re-designating the 1st respondent as Booking Clerk was arbitrary, illegal and bereft of power, and accordingly passed an award holding that the petitioner is entitled to continue as Conductor Grade-I with continuity of service and he is also entitled to arrears of difference of salary. Aggrieved by the said award, the petitioner-management filed this writ petition.

Before going into the merits, it may be necessary to notice that during the pendency of this writ petition, the 1st respondent-workman retired from service on 28.02.2004, on attaining the age of superannuation.

There is no necessity of going into all the details.

The only ground, on which the order dated 22.01.1997 was set aside by the Labour Court, is that the Personnel Officer has no authority to issue a show-cause notice, decide the matter and to re-designate the 1st respondent as Booking Clerk. The petitioner-management has not satisfied the Labour Court as to the power of the Personnel Officer in doing so. The selection of the 1st respondent to the post of Conductor was made by the duly constituted Selection Committee. Neither the Selection Committee nor the Regional Manager, who headed the Selection Committee, has issued any show-cause notice or taken a decision for re-designating the 1st

respondent as Booking Clerk, if the selection was done on a mistaken notion. The petitioner-management herein did not bring any such rule to the notice of the Labour Court to show that the Personnel Officer has such a power to do so. Even before this Court, the learned counsel for the petitioner-management, except asserting that the Personnel Officer has all the power under the law to issue show-cause notice to the 1st respondent, decide the matter and to pass final order, has not brought to the notice of the Court the rule position existing in favour of the management.

Under these circumstances, I am of the opinion that the Labour Court has not committed any error calling for interference of this Court under Article 226 of the Constitution of India. The writ petition is devoid of merits and is liable to be dismissed.

The writ petition is accordingly dismissed. No costs.

C.V. RAMULU, J

13-03-2007.
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